

DRAFT TALKING POINTS FOR TRIBAL/FEDERAL CONSULTATION
January 25, 2000

Desired Outcomes

If the risk to salmon is significant enough to restrict treaty fishing, then it is significant enough to commit to restore salmon and take the actions necessary to do so.

A. Expression of federal and tribal expectations for consultations.

The tribes view these consultations as good faith negotiations leading to agreement on immediate actions to rebuild our salmon runs.

The government's decisions on the federal dams and All H Paper will affect our salmon for generations.

The tribes need to know whether you share this view so that the tribes can make decisions as to whether and how to proceed with consultations.

During the meeting we expect to share our expectations for substantive policy outcomes and immediate actions.

At the end of the meeting, we want your candid reaction as to whether these issues are "on the table" for good faith negotiations and whether the federal government can reach agreement with us.

B. Policy Outcomes

In 1995, each of the four Columbia River Treaty Tribes adopted, by Council Resolution, Wy-Kan-Ush-Mi Wa-Kish-Wit, which sets forth the goals and objectives of the tribes' fish restoration efforts and the means to achieve them. What we lack is a commitment to implement our plan.

In 1994, the NPPC adopted its seventh set of amendments to the Fish and Wildlife Program. Its not being implemented.

In 1985, the United States and Canada pledged a mutual commitment to rebuild salmon runs under the Pacific Salmon Treaty. The rebuilding commitment has not been implemented.

Before the ESA or the Northwest Power Act became a factor in Columbia fisheries management, the tribes voluntarily agreed to restrictions on their fisheries to help protect and restore the resource. (Summer chinook, 1964. Spring chinook 1977). For much of the past four decades, harvest restrictions have been the only tool resource managers have been willing to use. It hasn't worked.

1. Recovery and Rebuilding Commitments and Timeframes

- a. The tribes want commitments to increase the total annual adult salmon returns of upriver stocks to 4 million within 25 years. This is what is in our plan and these runs will allow for meaningful fisheries.

2. Sharing the Conservation Burden Equitably

- a. Our treaties and the cases that interpret them secure our right to fish without discriminatory regulation.
- b. We view all human-caused mortality as "harvest", yet we see the federal government treat non-fisheries caused mortality very differently than fisheries. The dams are allowed to kill vast numbers of listed salmon far greater than the treaty fishery. NMFS has not even bothered to quantify the level of mortality caused by land management actions.
- c. We see how the federal government is trying to "set up" a dams versus harvest scenario for fall chinook and steelhead, while ignoring the fact that spring chinook won't recover in the absence of all harvest. It won't work. We view with some irony the fact that the only healthy stocks in the upper Columbia, upriver bright fall chinook, is the only stock that we commercially fish. However, we still remember the years that the URBs were so depressed we went to the Ninth Circuit over a one day fishery. After that, the parties agreed to take meaningful actions to protect and rebuild the run and (despite NMFS' anti-production scientists views) have succeeded. We are also succeeding with Snake River fall chinook (after we had the 1994 blow-up).
- d. It is time for the federal government to step forward and commit to actions in the other three H's to rebuild the salmon runs.

3. Securing Treaty Fisheries

- a. The tribes want historical tribal harvest included in the environmental baseline.
- b. The tribes want certainty for tribal harvests by:

Federal commitments that tribal incidental take can occur on a priority basis with regard to other sources of mortality.

Taking actions to reduce mortalities in other H's in order to accommodate tribal harvest.

4. *Enforceability*

- a. Rebuilding and allocation commitments must be enforceable via a court order and through appropriations.
- b. The tribes have too often witnessed the federal government failure to implement non-enforceable programs.

C. Immediate Actions to Achieve Policy Outcomes

1. Hydropower Actions:

Decision Pathway to Breaching: The best available evidence indicates that breaching dams is the best way to save Snake River salmon. The federal government needs to commit to a presumptive path to breaching the Snake River Dams. On this presumptive path, the federal government will implement breaching unless it has taken other immediate actions to recover and restore the salmon and can prove with certainty that it can rebuild the runs adequate to meet its treaty and trust obligations to Indian tribes.

Improved Flows: In the absence of breaching, the Columbia and Snake Rivers must be managed to provide for "normative" flow conditions. To do this flood control must be relaxed, which means greater risk of flooding in the Portland/Vancouver area. In addition, new water acquisitions must be obtained from Canada and the upper Snake on a long-term basis.

Corps Capital Construction: The Corps needs to respect tribal priorities. Current Corps technologies are leading to the demise of sockeye and lamprey, while trying to save chinook and steelhead and minimize impact to the status quo. The Corps needs to focus on increased use of surface bypass and spill technology, improvements in adult passage and compliance with Clean Water Act.

Bonneville Finances: Bonneville must be able pay for fish and wildlife measures necessary to restore salmon and Bonneville must be able to repay its Treasury debts on time and in full. Unless Bonneville changes its rate proposal, we intend to appeal to FERC and the courts. We also intend to take our case before sympathetic members of Congress, from both inside and outside the region.

2. Hatchery Actions

Hatchery Transfers: It is time for the federal government to turn over the keys to the hatcheries to the tribes. Of the approximate 100 hatcheries in the Columbia Basin, the tribes control two. The tribes have long sought direct control over operations and maintenance of several hatcheries in the Basin, including transfer of Klickitat Hatchery from the state of Washington to the Yakama Nation and transfer of Dworshak, Clearwater and Kooskia hatcheries to the Nez Perce. Each of these hatcheries is located on the respective tribe's reservation.

Funding for Tribal Programs We need stable funding. We are tired of the Mitchell Act "bait and switch" whereby NMFS claims to "close" the states' Mitchell Act facilities due to funding cuts but then BPA provides the states funds to keep the facilities full of fish - destined for release below Bonneville Dam. At the same time, funding for tribal priorities above Bonneville are cut and the tribes are denied access to BPA funds.

Federal Artificial Propagation Policies Exercise policy discretion to change NMFS' policies to harmonize them with federal treaty and trust obligations so that common sense supplementation and production actions, aimed at recovery of stocks within 25 years can proceed.

3. Habitat Actions

ICBEMP Must Be Reformed: The All H paper has essentially taken federal lands off the table by simply assuming that ICBEMP will eventually issue a product which will meet the needs of salmon. This is a huge and unwarranted assumption. Existing forest plans and PACFISH, as inadequate as they are, are still better than what ICBEMP has produced. We recommend that aquatic protection strategies from ICBEMP be **referred** to the Independent Scientific Advisory Board for peer review.

Watershed Protection and Restoration: There is a tremendous amount of degraded salmon habitat on federal and private land and it will take many, many years improve it. Therefore, we protect the remaining good habitat and restore the degraded habitat. We congratulate the Administration for its proposal to protect existing roadless areas. In addition, the tribes support and are taking the lead in restoration measures, such as road obliteration and placing riparian areas off limits to logging and grazing.

Quantitative Standards and Monitoring: Land managers must be accountable for achieving quantitative habitat objectives based on the biological needs of salmon. Monitoring must be adequate to assess conditions and trends, based on these objectives. Management actions must be accountable to the monitoring information.

Don't Dredge the Estuary: The federal government should not deepen the Columbia River channel. This is important salmon habitat that needs to be protected and restored not dredged.

4. Harvest Actions

Multi-Year Fisheries Commitment: The Tribes need a federal commitment to approve reasonable multi-year fisheries that reflect tribal needs, improvements required of other H's and rebuilding goals.

D. Monitoring, Evaluation and Research

Tribal Role: It is essential that the tribes have a significantly increased role in designing and implementing monitoring, evaluation, and research for Columbia basin fish and wildlife. An enhanced tribal role in monitoring, evaluation, and research would help ensure greater balance, independence, and thoroughness.

CRI Inadequacies: The CRI process provides the technical foundation for the Lower Snake River dam draft EIS. The CRI results have not been formally peer reviewed or validated. The absence of regional state and tribal participation and oversight is telling. NMFS has produced a product that does not withstand scrutiny.

Collaborative Science: It is time to re-devote ourselves to the difficult but necessary task of addressing science and research issues in a manner which provides for the meaningful participation of tribal scientists (and state scientists) along with federal scientists. We have conducted the experiment of allowing the NMFS Science Center to proceed unchecked and the CRI is the undistinguished result.

E. Economic and Social Mitigation Plan

Assistance to economically depressed fishing communities: Many of our tribal people who depend on the Columbia River for their livelihoods are desperately poor. Indian people are living along side the world's most lucrative hydroelectric system in houses with dirt floors and no electricity. Our people need housing assistance, economic development opportunities, and other federal support.

Mitigation and transition costs: Communities impacted by salmon recovery actions need economic aid to ease their transitions to new economic practices that do not injure salmon. For example, if grazing allotments on federal lands will be retired, you need a plan for the affected grazing-dependent communities.

F. Implementation Efforts

Any agreement we reach must provide for implementation. Without implementation there is no agreement. Implementation will require funding and institutional commitments.

Funding Actions: The actions we have identified need to be implemented on an aggressive schedule beginning this year. Significant increases in effort are needed in FY 2001 and beyond and these will require appropriations in support of tribal, federal, and state salmon restoration actions.

Institutional Actions: The tribes can no longer take a back seat role in salmon restoration. We must be a full partner with the federal government or the salmon are doomed. Give us the keys to federal hatcheries. Support us in the lead role in watershed restoration for our homelands. Stand by the United States' commitments to support our treaties and sovereignty in U.S. v. Oregon.

G. Agreement on Consultation Process

Likelihood of Reaching Agreement: Is the likelihood of reaching agreement sufficient to warrant further consultations? This is a judgment that tribal policy makers must make based in part on what the federal agencies have to say at this meeting. Fruitless consultations are potentially damaging to the tribes. First, tribal resources are scarce and time spent in consultation is time not spent on other salmon restoration matters. Second, consultations will allow the federal government to say it has consulted with the tribes and take away a potential claim in a lawsuit.

Written Acceptance of Consultation Procedures: On December 3, the tribes were assured that the consultation procedures were acceptable and the federal government would respond in writing. We are still awaiting a response.

Establishment of Workgroups and Schedules: Assuming that the tribes and federal government decide to proceed with consultations, staff has identified a tentative schedule for consultations that would consist of approximately five regional meetings and a subsequent meeting in D.C. in late April to reach closure prior to a federal decision on a new Hydro BiOp. Recently, we have heard that this schedule is too ambitious, that the federal government cannot keep this schedule.